



STATE OF WEST VIRGINIA  
OFFICE OF THE ATTORNEY GENERAL  
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CONSUMER PROTECTION DIVISION  
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# Press Release

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***For Immediate Release***

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**ATTORNEY GENERAL DARRELL MCGRAW SUES MAJOR TOBACCO COMPANIES TO RECOUP  
A SEVEN MILLION DOLLAR SHORTFALL**

Attorney General Darrell V. McGraw announced today that his office had instituted legal proceedings in Kanawha County Circuit Court aimed at recovering approximately seven million dollars withheld by some tobacco manufacturers.

The tobacco manufacturers, led by R. J. Reynolds, maintain that they are entitled to withhold the money because they have lost market share. The forty-six Settling States maintain that the tobacco manufacturers first must establish in good faith that one or more states failed to diligently enforce laws regulating tobacco manufacturers that did not sign the Master Settlement Agreement. The MSA provides a "safe harbor" to those states that diligently enforced those laws. The State of West Virginia, along with the other Settling States, had previously notified the tobacco companies, as required under the settlement agreement, that suit would be filed for full payment.

Intensive negotiations between the settling states and the tobacco companies have been ongoing for the last several weeks. As a result, Philip Morris, the largest company, did not withhold, although it did so under protest. In contrast, Reynolds and Lorillard withheld 647 million dollars and 108 million dollars, respectively. West Virginia's share of the withholdings is approximately 7 million dollars. John S. Dalporto, a senior assistant attorney general, stated "We are pleased that Philip Morris behaved in a prudent and responsible corporate fashion. Naturally, we are disappointed that Reynolds and Lorillard did not follow the example of Philip Morris."

Dalporto is confident in prevailing in court and is convinced that the State of West Virginia has diligently enforced its laws, which require nonparticipating manufacturers to escrow money for cigarette sales. For the year at issue, only one percent of cigarettes sold in West Virginia were sold by nonparticipating manufacturers who did not properly escrow funds. The Attorney General's office sued the noncompliant companies that could be located and obtained judgments or settlements against each of them. Nearly 200,000 dollars in penalties was exacted in the settlements with noncompliant companies.

Dalporto noted that the Legislature too has played a role in the diligent enforcement arena. In 2003, the Legislature passed two laws which strengthened the enforcement capabilities of the State. Since 2002, the Legislature has appropriated 250,000 dollars per year to fund the enforcement activities of the Attorney General and Tax Department. In 2003, a part of this appropriation was used to fund Tax Department auditors and to set up a web site to better coordinate cigarette law enforcement. Tax Department authorities have confiscated contraband cigarettes and assessed numerous penalties against noncompliant cigarette distributors and wholesalers.

Dalporto believes that every State will be found to have diligently enforced its tobacco statutes in 2003 and thus the withheld money will ultimately be recovered.

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